February 6, 2009

Part III — The Locally Preferred Alternative must be studied in the EIS

> *Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.*[1]
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> *A problem of "segmentation" may also occur where a transportation need extends throughout an entire corridor but environmental issues and transportation need are inappropriately discussed for only a segment of the corridor.*[2]

As stated in Bill 79 (2006)[3] and Ordinance 07-001:

> *The locally preferred alternative for the Honolulu High-Capacity Transit Corridor Project shall be a fixed guideway system between Kapolei and the University of Hawaii at Manoa ... with the Waikiki branch ... The city administration is authorized to proceed with preparation of an environmental impact statement for the locally preferred alternative (LPA)*

Resolution 07-039 defines a shortened minimum operable segment between East Kapolei at the University of Hawaii-West Oahu, near the future Kroc Center, and Ala Moana Center.

The second and last Scoping Report, p. 5-3, states clearly that:

> *Both UH Mānoa and Waikīkī service are included in all fixed guideway alternatives that will be evaluated in the EIS.*

However in the Draft EIS, the detailed environmental analysis and documentation applies only to the core 20-mile alignment between East Kapolei and Ala Moana Center. The additions from East Kapolei to West Kapolei and from Ala Moana Center to UH Mānoa and to Waikīkī are described as "future planned extensions."

The Locally Preferred Alternative should be examined in the EIS in its entirety as was intended by both Notices of Intent and authorized by the City Council. The three "planned extensions" should not have been segmented from the Locally Preferred Alternative in this Draft EIS.

As the Corps of Engineers commented for the second Scoping Report, A-10,

> *The Corps believes the environmental consequences resulting from construction of the "Minimal Operable Segment" and all planned extensions must be considered in the project-level EIS, particularly if the Project [meaning the LPA] benefits, wholly or partially, are derived from one or more of these future extensions and station locations.*[4]

We believe that segmentation of what was formerly the Locally Preferred Alternative into a newly designated "Project" (formerly the Minimum Operable Segment and later the First Project) and "planned extensions" was surreptitiously undertaken to avoid the following FTA policy.

> *... the Federal 'undertaking' in a Fully Funded Grant Agreement (FFGA) will no longer be segmented into Project and Local Activities. All activities related to a Federal undertaking will be identified as the Federal Project. The Federal funds will be distributed among all the activities in the project at a level funding ratio equal to the*

1 40CFR1502.4[a]
2 http://www.fhwa.dot.gov/environment/alts.htm
3 http://www.honolulutraffic.com/Bill79Final.pdf
4 Corps of Engineers comments, Second Scoping, App. A-1, p. A-6, at: www.honolulutraffic.com/NEPAScopingReport.pdf

> *percentage of Federal financial participation in the entire project. Thus, all the elements and activities of the project, as described in the FFGA will be funded, in part, with Federal funds; and, the requirements attached to the use of Federal funds will apply to each such task, unless otherwise exempted as provided in the applicable laws, regulations and policies.*[5]

Not segmenting the original Locally Preferred Alternative would mean that the City would get far less federal funds for the Minimum Operable Segment and make the MOS even more financially untenable than it is already (see Discussion of Finances).

The lack of any credible rationale in the Draft EIS for the City's segmentation of the "planned extensions" from the LPA intimates that the segmentation was done to facilitate funding and acceptance of the Draft EIS since cost and environment issues for the extensions to UH Manoa and Waikiki are proportionally greater than for the Minimum Operable Segment.

These combined segments of the project are intended to provide approximately 30 miles of unified rail transit line. The cost and environmental impacts of the integrated project will be significantly greater than the isolated Minimum Operable Segment or "Project" that is specified.

The UH Manoa and Waikiki extensions will traverse the core urban center of Honolulu creating significant cumulative environmental impacts including prolonged lifestyle disruption due to construction difficulties, excavation of culturally sensitive areas, severe noise impacts through close-quartered residential neighborhoods resulting in great emotional distress, impossible to mitigate visual impacts, and negative impacts on property values within close proximity to the rail line.

> *When several foreseeable similar projects in a geographic region have a cumulative impact, they should be evaluated in a single EIS.*[6]

Like the two sections of the Winston-Salem beltline at issue in North Carolina Alliance, the three remaining sections of the Locally Preferred Alternative,

> *... constitute cumulative actions, and therefore should [be] considered in the same environmental impact statement.*[7]

The *de minimus* discussion of cumulative impacts of the planned extensions in the Draft EIS do not justify segmentation of the Locally Preferred Alternative under NEPA. This segmentation has occurred because of funding considerations and the arguments found in the Draft EIS are merely post-hoc rationalizations for this funding-driven violation of the law.

The Draft EIS violates both NEPA and the FTA regulations because it fails to consider the fully detailed cumulative actions of the Minimum Operable Segment and the "planned extensions" in a single Environmental Impact Statement, because these sections were segmented due to funding considerations rather than the NEPA criteria.

The Draft EIS, p. 2-41, states that,

> *The Ala Moana Center and Convention Center Stations would be transfer points between the UH Mānoa and Waikīkī branch lines.*

This raises innumerable question about how this would all work and what would be the impacts. For example, the engineering drawings[8] show that the planned extension to UH would entail

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5 http://www.fta.dot.gov/funding/thirdpartyprocurement/bppm/grants_financing_6105.html

6 Resources, Ltd. v. Robertson, 35 F.3d 1300, 1306 (9th Cir. 1993), quoted in North Carolina Alliance for Transportation Reform v. U.S. Dept. of Transportation, 151 F. Supp. 2d 661, 685 (M.D.N.C. 2001).

7 151 F.Supp. 2d at 684.

8 Draft EIS, Appendix A, Sheet RP024.

adding a branch line in the vicinity of the junction of Queen and Waimanu Streets. This would likely near double the width of the rail bed. The drawings also show that these two rail lines cross over one another at Piikoi and Kona Streets with one line continuing at the 35 feet level and the one above at 65 feet. This may be an even greater eyesore than was in the original plan.

How are the two Ala Moana stations going to work? And how are the promised three minute headways to be maintained with these future extensions.

Further, if Ala Moana Center and the Convention Center are transfer points to Waikiki and UH Manoa, how will that work environmentally? If UH Manoa and Waikiki are also to have service every three minutes, how is that going to work with three separate lines — Ala Moana only line, UH Manoa line and Waikiki line — in operation?

Is the lower Ala Moana Station to be torn down and replaced by the originally contemplated higher one? Or is it that the structures at Ala Moana Center present insurmountable engineering difficulties and that the City has no plan to ever build beyond Ala Moana Center?

Or is it that the "planned extensions" could not possibly pass the FTA's cost-effectiveness test? It is obvious that the "planned extensions," which would require a separate EIS,[9] would not come close to meeting the cost-effectiveness requirements.

In another significant omission, the Draft EIS does not give total transit boarding or trip data for the various rail alternatives, only Fixed Guideway Boardings.[10] However, according to the Alternatives Analysis the greatest transit ridership generated of all the rail alternatives is 294,100 versus 281,900 for the 20.7 mile MOS. That is a mere 4.5 percent increase in ridership requiring a 25 percent increase in capital costs, again according to the Alternatives Analysis.

Frankly, failing a coherent plan that addresses these issues, we are presently inclined to believe that Ala Moana Center is the final terminus and there may well be no real intent to build the "planned extensions."

Had the City Council and the public been aware of this segmentation at the time of the Alternatives Analysis and Scoping, the public responses may well have been very different. For example, the Managed Lane Alternative would have been considered more useful if there was to be no direct rail connection to UH Manoa.

In addition, the Minimum Operable Segment will have almost no impact on residential property in the dense urban areas whereas the planned extensions to UH Manoa and Waikiki will have significant adverse impacts on high rise condominiums, hotels, and family dwellings.

For all these reasons the Locally Preferred Alternative should be examined in the EIS in its entirety as was intended by both Notices of Intent and authorized by the City Council and as required by law.

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9 Draft EIS, 2-41.
10 Draft EIS, Table 3-28.